

IN THE HIGH COURT OF KARNATAKA : AT BANGALORE

DATED : 30TH DAY OF MAY 1998

BEFORE

THE HON'BLE MR.JUSTICE K.H.N.KURANGA

C.R.P. Nos.536 and 537 OF 1998

Between:

P.Dasaratharama Reddy,
S/o late Sesha Reddy,
Major, residing at
No.1161, 26th Main,
4th Block, Jayanagar,
Bangalore-11. Petitioner
common in
both cases

(By Sri P.Krishnappa,
Advocate for petitioner)

And:

1. B.Shantha Bai,
W/o B.Panquranga Baliga,
Major, residing at No.4,
Upstairs, Gandhinagar,
Bangalore-9.

2. P.P.Nayak,
S/o Veman Naik,
Major, Panagal House,
Katpadi, South Kanara.

3. M.R.Kamath,
S/o Ganapath Kamath,
Major, Proprietor,
Cashew Industries,
Quilon, Kerala State. Respondents
common in
both cases

These Civil Revision Petitions are filed under Section 115 of the Code of Civil Procedure against the order dated 11-12-1997 passed in O.S.No.3480 of 1981 on the file of the I Addl. City Civil Judge, Bangalore allowing I.A.No.19 filed under Order 1 Rule 10 of the Code of Civil Procedure praying to implead and allowing I.A.No.18 filed under Order 1 Rule 10 of the Code of Civil Procedure praying to implead the defendant.

These petitions are coming on for admission, this day, the Court made the following:-

ORDER

The petitioner in both these petitions is the same. He is a party sought to be impleaded as 3rd defendant in the suit O.S. No.3480 of 1981. He has, in these petitions, challenged the common order dated 11-12-1997 passed by the learned J. Additional City Civil Judge, Bangalore on I.A.Nos.18 and 19. The court below allowed the said interim applications I.A.Nos.18 and 19 filed by the plaintiff in the suit i.e., the first respondent herein.

2. The first respondent herein is the plaintiff; second respondent is the first defendant and third respondent is the second defendant in the said suit.

3. The plaintiff filed the said suit against the first and second defendants to declare that the sale deed executed by the first defendant in favour of the second defendant is not binding on the plaintiff.

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4. According to the plaintiff, the exchange deed between the petitioner herein and the second defendant was executed on 17-2-1995 during the pendency of the suit. The contention of the petitioner is that he was in possession of the suit property from 1984 under a mistake, thinking that it is site No.1162. This contention of the petitioner has got to be established by adducing evidence in the suit. The plaintiff is seeking to implead the petitioner as the third defendant in the suit because of the transaction of exchange deed dated 17-2-1995 between the second defendant and the petitioner. Therefore, it cannot be said that the present petitioner is not a necessary party to the suit. The exchange deed came into existence between the second defendant and the petitioner on 17-2-1995 during the pendency of the suit and the applications for impleading and amendment of the plaint were filed on 18-6-1996. Hence, it cannot be said that the same is barred by limitation.

5. The court below, in the circumstances, has rightly allowed the applications - I.A.

h/

Nos.18 and 19 filed by the plaintiff. There are no reasons to interfere with this order passed by the Court and the petitions filed by the petitioner are liable to be dismissed and accordingly, they are dismissed.

Sd/-
JUDGE

KBN/-